

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

FRANK LIU,  
V.  
CITY OF RENO, *et. al.*

Case No. 3:22-CV-00551-ART-CLB

**ORDER**

10 On December 13, 2022, Plaintiff Frank Liu (“Liu) initiated this action by filing an  
11 application to proceed *in forma pauperis* and along with a *pro se* civil rights complaint,  
12 (ECF Nos. 1, 1-1). Liu asserted claims for (1) violation of the Eighth Amendment as it  
13 relates to *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019); (2) violation of the Fourth  
14 Amendment as it relates to *Terry v. Ohio*; and (3) violation of the Fourteenth Amendment  
15 as it relates to “racial profiling... without due process” against Defendants City of Reno  
16 and Scott Gauthier. (ECF No. 4 at 5, 13.) On December 22, 2022, the Court issued a  
17 screening order pursuant to 28 U.S.C. § 1915A, granting Liu an opportunity to either  
18 amend his complaint or proceed on the complaint as stated in the Screening Order (ECF  
19 No. 3). The Court allowed Liu to proceed on his Fourth and Fourteenth Amendment claims  
20 against Defendant Gauthier and additionally granted leave to amend on the Eighth  
21 Amendment claim and dismissed, without prejudice, Defendant City of Reno. (*Id.*) On  
22 January 27, 2023, Liu filed his amended complaint. (ECF No. 9.)

Having reviewed the amended complaint, the Court finds as follow: Liu has alleged sufficient facts to proceed against the City of Reno on a *Moneil* claim based on its policies and customs related to the homeless population in relation to the Fourth and Fourteenth Amendment claims, as discussed in the original screening order (See ECF No. 3). Finally, in reviewing the Eighth Amendment claim, the Court finds Liu has not properly amended this claim, which is dismissed accordingly.

1           Accordingly, **IT IS HEREBY ORDERED** that Liu will **PROCEED** against  
2 Defendants City of Reno and Reno Police Department Officer Scott Gauthier ("Gauthier")  
3 on the following claims: (1) violation of the Fourth Amendment as it relates to *Terry v.*  
4 *Ohio*, 392 U.S. 1, 19 (1968); and (2) violation of the Fourteenth Amendment as it relates  
5 to "racial profiling... without due process."

6           **IT IS FURTHER ORDERED** that the Clerk shall **ISSUE** summons for the above-  
7 named defendants and deliver the same to the U.S. Marshal together with a copy of the  
8 complaint, (ECF No. 9), the screening order, (ECF No. 3), and this order for service on  
9 the defendant. The Clerk shall **SEND** to Liu two USM-285 forms. Liu shall have until  
10 **March 1, 2023**, to complete the USM-285 service forms and return them to the U.S.  
11 Marshal, 400 S. Virginia Street, 2<sup>nd</sup> Floor, Reno, Nevada 89501. If Liu fails to follow this  
12 order, the above-named defendants will be dismissed for failure to complete service of  
13 process pursuant to Fed. R. Civ. P. 4(m).

14           **IT IS FURTHER ORDERED** that henceforth, Liu shall serve upon Defendants or,  
15 if appearance has been entered by counsel, upon the attorney(s) a copy of every  
16 pleading, motion, or other document submitted for consideration by the Court. Liu shall  
17 include with the original paper to be filed with the Clerk of the Court a certificate stating  
18 the date that a true and correct copy of the document was mailed to the Defendants or  
19 counsel for defendants. The Court may disregard any paper received by a District Judge  
20 or a Magistrate Judge which has not been filed with the Clerk of the Court, and any paper  
21 received by a District Judge, Magistrate Judge, or Clerk of the Court which does not  
22 include a certificate of service.

23           **IT IS SO ORDERED.**

24           **DATED:** February 8, 2023.

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**UNITED STATES MAGISTRATE JUDGE**  
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